

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Community Affairs Committee

BILL: CS/SB 62

SPONSOR: Community Affairs Committee and Senators Campbell and Rich

SUBJECT: Services for Seniors and Adults with Developmental Disabilities

DATE: January 11, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vickers	Yeatman	CA	Fav/CS
2.	_____	_____	GE	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This CS authorizes counties to create, by ordinance, an independent special district to provide services for seniors and adults with developmental disabilities throughout the county. Upon approval by the electors in the county, the district may annually levy ad valorem taxes, not to exceed 0.5 mills. In addition, the bill:

- provides for an appointed district governing board;
- specifies the powers and functions of the governing board;
- requires each governing board to identify and assess the needs of seniors and adults with developmental disabilities in the county served by the district and to provide an annual report and budget;
- requires the governing board to prepare and file a financial report with the governing body of the county;
- provides that a district may be dissolved by a special act of the Legislature or by ordinance by the governing body of the county; and
- authorizes the creation of dependent special districts under certain circumstances.

This CS creates a new unspecified section of the Florida Statutes.

II. Present Situation:

Special Districts in Florida - The Florida Constitution specifically provides for four types of local governments: counties, school districts, municipalities, and special districts. The 67 counties are subdivisions of the state, providing a variety of core services through constitutional officers (county commissioners, sheriff, tax collector, property appraiser, supervisor of elections,

and clerk of the court) pursuant to authority granted in the constitution and consistent with general law.¹ The 67 school districts are coterminous with the boundaries of the county, and are responsible to operate, control and supervise all free public schools within the district.² The 408 municipalities exist pursuant to charters established by law and approved by the electorate in a referendum. They possess “home rule” authority to provide traditional municipal services, to the extent consistent with their charters and not inconsistent with general law.³ The State Constitution limits the property taxing authority of these forms of local government to 10 mills on the assessed value of real estate and tangible personal property in each jurisdiction, respectively.⁴

Special districts have been a part of Florida’s history for a long time. In 1822, Florida was governed by a territorial council and one of the first session laws created a special district for establishing and maintaining public roads. Special districts are limited-purpose units of local government. Their property tax millage is limited by law and subject to referendum approval by the affected electorate.⁵ Special Districts are subject to the same restrictions on credit,⁶ bonding,⁷ employment (civil service),⁸ elections,⁹ public records and meetings,¹⁰ as are counties, school districts, and municipalities. Special districts may also receive state aid, like counties, school districts, and municipalities.¹¹

According to the Special District Information Office (SDIO) of the Department of Community Affairs, there are 1,274 special districts in Florida.¹² These districts provide a variety of governmental services pertaining to airports; the arts; beach restoration; children’s services; community development; conservation; emergency medical services; environmental protection; expressways and bridges; fire control and rescue; health care; housing; juvenile welfare; libraries; mosquito control; navigation; neighborhood improvement; ports; recreation and parks; soil and water conservation; transportation; water control and supply; and water and sewer services.

Chapter 189, F.S., the Uniform Special District Act of 1989, generally governs the creation and operation of special districts in the state. It also establishes procedures and limitations on the election of district officers, levy of ad valorem taxes and special assessments, bonding of district revenues, budgeting, and reporting requirements.

¹ Section 1, Art. VIII of the State Constitution.

² Section 4(a), Art. IX of the State Constitution.

³ Section 2, Art. VIII of the State Constitution.

⁴ Section 9, Art. VII of the State Constitution.

⁵ Section 9, Art. VII of the State Constitution.

⁶ Section 10, Art. VII of the State Constitution.

⁷ Section 12, Art. VII of the State Constitution.

⁸ Section 14, Art. III of the State Constitution.

⁹ Section 6, Art. VI of the State Constitution.

¹⁰ Section 24, Art. I of the State Constitution.

¹¹ Section 8, Art. VII of the State Constitution.

¹² Of this total, 1,209 are single-county special districts, and 65 are multiple-county special districts.

http://www.floridaspecialdistricts.org/OfficialList/numbr_of.asp 11/29/04

Section 189.403(1), F.S., defines a special district as:

“...a local unit of special purpose, as opposed to general-purpose, government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The special purpose or purposes of special districts are implemented by specialized functions and related prescribed powers...” The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, a municipal service taxing or benefit unit as specified in s. 125.01, or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

Dependent and Independent Special Districts - Special districts are further delineated as “independent” and “dependent” special districts. Dependent special districts are defined in subsection (2) as a special district that meets at least one of the following criteria:

- The membership of its governing body is identical to that of the governing body of a single county or a single municipality;
- All members of its governing body are appointed by the governing body of a single county or a single municipality;
- During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality; or
- The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.

According to the SDIO, there are 567 dependent special districts in the state.¹³ These districts are components of county or municipal governments, created by ordinance or special act of the Legislature. As such, these districts are accountable to the respective county or municipal government. If the district levies ad valorem taxes, such taxes are subject to the constitutional millage limitation for the respective jurisdiction.

An independent special district is defined in subsection (3) as “...a special district that is not a dependent special district as defined in subsection (2).” Furthermore, a district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality. According to the SDIO, there are 707 independent special districts in the state.¹⁴

Section 189.404, F.S., sets forth the legislative intent for creating independent special districts. Subsection (3) requires that general laws or special acts that create or authorize the creation of an independent special district must address the following in their charters:

- The purpose of the district;

¹³ Ibid.

¹⁴ Ibid.

- The powers, functions, and duties of the district regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements;
- The methods for establishing the district;
- The method for amending the charter of the district;
- The membership and organization of the governing board of the district;
- The maximum compensation of a governing board member;
- The administrative duties of the governing board of the district;
- The applicable financial disclosure, noticing, and reporting requirements;
- If a district has authority to issue bonds, the procedures and requirements for issuing bonds;
- The procedures for conducting any district elections or referenda required and the qualifications of an elector of the district;
- The methods for financing the district;
- If an independent special district has the authority to levy ad valorem taxes, the millage rate that is authorized;
- The method or methods for collecting non-ad valorem assessments, fees, or service charges;
- Planning requirements; and
- Geographic boundary limitations.

Subsection (4) of s. 189.404, F.S., provides that except as otherwise authorized by general law, only the Legislature may create independent special districts. However,

- A municipality may create Community Development Districts established by ordinance in accordance with s. 190.005, F.S., or as otherwise authorized in general law;
- A county may create Children's Services Districts (pursuant to s. 125.901, F.S.), Health Care Districts (pursuant to s. 154.331, F.S.), County Hospital Districts, (pursuant to ch. 155, F.S.), or Community Development Districts (pursuant to s. 190.055, F.S.), or as otherwise authorized by general law;
- The Governor and Cabinet may create Community Development Districts, established by rule in accordance with s. 190.005, F.S., or as otherwise authorized in general law, and Regional Water Supply Authorities, in accordance with s. 373.1962, F.S., or as otherwise authorized in general law;
- Any combination of two or more counties may create a regional special district for a regional jail, established in accordance with s. 950.001, F.S., or as otherwise authorized in general law;
- Any combination of two or more counties or municipalities may create Regional Water Supply Authorities, established in accordance with s. 373.1962, F.S., or as otherwise authorized by general law; and
- Any combination of two or more counties, municipalities, or other political subdivisions may create regional transportation authorities, in accordance with s. 163.567, F.S., or as otherwise authorized in general law.

Children's Services District - Section 125.901, F.S., authorizes counties to create, by ordinance, an independent or dependent special district to provide funding for preventative, developmental, treatment, and rehabilitative services for children throughout the county. Upon approval by the electors in the county, the district may annually levy ad valorem taxes, not to exceed 0.5 mills. In addition, this section creates an appointed governing board for the special district, specifying the powers and functions of the board; requires each board to identify and assess the needs of the children in the county served by the board and to provide an annual written report to the governing body of the county; requires the board to prepare a budget, and prepare and file a financial report with the governing body of the county; and provides dissolution of the district. According to SDIO, there are nine Children's Services Districts in Florida.¹⁵

Health Care District - Section 154.331, F.S., authorizes counties to create, by ordinance, an independent or dependent special district to provide funding for indigent and other health and mental health care services throughout the county. Upon approval by the electors in the county, the district may annually levy ad valorem taxes, not to exceed 5 mills. In addition, this section creates an appointed governing board for the special district, specifying the powers and functions of the board; requires the board to prepare a budget, and prepare and file a financial report with the governing body of the county; and provides dissolution of the district. According to SDIO, there are six Health Care Districts in Florida.¹⁶

Developmental Disabilities Program

Chapter 393, F.S. establishes the Developmental Disabilities Program within the Florida Department of Children and Families. The program assists people who have developmental disabilities and their families. It also provides assistance to identify the needs of people with developmental disabilities and funding to purchase supports and services. Although the Program Office is in Tallahassee, the supports and services for people with developmental disabilities are provided through district offices throughout the state.

"Developmental Disability" is a broad term that refers to a variety of conditions that interfere with a person's ability to function in everyday activities. Section 393.063 (10), F.S., defines developmental disabilities as autism, spina bifida, autism, cerebral palsy, Prader-Willi syndrome and mental retardation. All the causes of developmental disabilities are not known. Most developmental disabilities are present at birth, but others may not be recognized and identified for several months. Disabilities challenge the people who have them because they can change the way people grow, learn and function.

III. Effect of Proposed Changes:

This CS authorizes counties to create, by ordinance, an independent district to provide funding for services for seniors and adults with developmental disabilities throughout the county. These provisions are modeled on similar statutory provisions for Children's Services Districts and

¹⁵ Brevard, Broward, Hillsborough, Martin, Miami-Dade, Okeechobee, Palm Beach, Pinellas, and St. Lucie Counties.
http://www.floridaspecialdistricts.org/OfficialList/funct_sa.asp

¹⁶ Hardee, Lake, Madison, Orange, Palm Beach, and Volusia Counties.
http://www.floridaspecialdistricts.org/OfficialList/funct_sa.asp

Health Care Districts. A dependent special district may also be created under certain circumstances.

Subsection (1) of the CS authorizes each county to create, by ordinance, an independent special district, as defined in sections 189.403(3) and 200.001(8)(e), F.S.,¹⁷ to provide funding for services for seniors and adults with developmental disabilities throughout the county. The boundaries of such district are to be coterminous with the boundaries of the county. The county governing body must obtain initial approval, by a majority vote of those electors voting on the question to create the district, to levy ad valorem taxes of up to 0.5 mills. The district is subject to the budget adoption process as provided in s. 200.065, F.S. (TRIM).¹⁸ Once the millage is initially approved by the electorate, the district is not required to seek approval of the electorate in future years to levy the previously approved millage.

The governing board of the district is to be a council on services for seniors and adults with developmental disabilities, consisting of 11 members. The membership must include:

- The executive director of the area agency on aging or his or her designee who is a director of senior programs;
- The county director of human services or his or her designee who is a director of elderly services;
- One person who is a director of programs for adults with developmental disabilities or his or her designee;
- One member of the county governing board;
- One non-voting member of the legislative delegation for the county appointed by the delegation chair; and
- One county representative of the Florida League of Cities.

The executive director of the area agency on aging or his or her designee and the county director of human services or his or her designee, and the director of programs for adults with developmental disabilities or his or her designee are permanent positions. The members from the county governing board, the legislative delegation, and the Florida League of Cities serve 2-year terms.

¹⁷ s. 200.001(8)(e), F.S., defines an independent special district as:
an independent special district as defined in s. 189.403(3) with the exception of a downtown development authority established prior to the effective date of the 1968 State Constitution as an independent body, either appointed or elected, regardless of whether or not the budget is approved by the local governing body, if the district levies a millage authorized as of the effective date of the 1968 State Constitution. Independent special district millage shall not be levied in excess of a millage amount authorized by general law and approved by vote of the electors pursuant to s. 9(b), Art. VII of the State Constitution, except for those independent special districts levying millage for water management purposes as provided in that section and municipal service taxing units as specified in s. 125.01(1)(q) and (r). However, independent special district millage authorized as of the date the 1968 State Constitution became effective need not be so approved, pursuant to s. 2, Art. XII of the State Constitution.

¹⁸ Chapter 200, F.S., governs the method of fixing property tax millage by local taxing authorities. The "Truth in Millage" (TRIM) guidelines set the method for establishing annual millage rates for local governments, set dates for the required public budget hearing, specify budget advertising requirements, and regulate other important components of the annual ad valorem tax cycle. Taxing authorities must comply with all aspects of the notice requirements or be required to repeat the hearing and notice process. Noncompliance may subject a taxing authority to forfeit state funds.

The other five members are county residents appointed by the Governor for 4-year terms and must represent, to the greatest extent possible, the cultural diversity of the county's population. At least one of the gubernatorial designees must be 60 years of age or older, and at least one must be an individual who is a caretaker or family member of a person who is 22 years of age or older and has a developmental disability. Recommendations for these memberships must be provided by the county governing board, with three names submitted for each vacancy, determined by category. The gubernatorial appointees shall be appointed to 4-year terms and may be appointed to one additional term of office. The length of the terms of the initial appointees must be adjusted to stagger the terms. Vacancies on the governing board are to be filled by appointment by the Governor, using the same method as the original appointment.

Paragraph (b) clarifies that this act does not prohibit a county from exercising such power as is provided by general or special law to provide services for seniors and adults with developmental disabilities or to create a special district to provide such services.

Subsection (2) provides that each council on services for seniors and adults with developmental disabilities is permitted to:

- Provide and maintain in the county such preventive, developmental, treatment, and rehabilitative services for seniors and adults with developmental disabilities as the council determines are needed for the general welfare of such individuals in the county;
- Provide any other services which the council determines are needed for the general welfare of seniors and adults with developmental disabilities in the county;
- Allocate and provide funds for other agencies in the county which are operated for the benefit of seniors and adults with developmental disabilities;
- Collect information and statistical data and conduct research that will be helpful to the council and the county in deciding the needs of seniors and adults with developmental disabilities in the county;
- Consult and coordinate with other agencies dedicated to the welfare of seniors and adults with developmental disabilities to the end that the overlapping of services will be prevented;
- Lease or buy real estate, equipment, and personal property and construct buildings as needed to execute the foregoing powers and functions, except that such purchases may not be made or building done unless paid for with cash on hand or secured by funds deposited in financial institutions (bonding is prohibited); and
- Employ, pay, and provide benefits for any part-time or full-time personnel needed to execute the foregoing powers and functions.

Each council on services for seniors and adults with developmental disabilities is required to:

- Elect a chair and a vice chair from among its members, and elect other officers as deemed necessary by the council;
- Identify and assess the needs of the seniors and adults with developmental disabilities in the county served by the council and submit to the governing body of each county a written description of:

- The activities, services, and opportunities that will be provided to seniors and adults with developmental disabilities;
- The anticipated schedule for providing those activities, services, and opportunities;
- The manner in which seniors and adults with developmental disabilities will be served;
- The special outreach efforts that will be undertaken to provide services to seniors and adults with developmental disabilities who are at-risk, abused, or neglected;
- The manner in which the council will seek and provide funding for unmet needs; and
- The strategy that will be used for interagency coordination to maximize existing human and fiscal resources;
- Provide training and orientation to all new members sufficient to allow them to perform their duties;
- Adopt bylaws and rules; and
- Provide a written report to the governing body of the county by January 1 each year, containing:
 - Information on the effectiveness of activities, services, and programs offered by the council, including cost-effectiveness;
 - A detailed anticipated budget for continuation of activities, services, and programs offered by the council, and a list of all sources of requested funding, both public and private;
 - Procedures used for early identification of at-risk seniors and adults with developmental disabilities who need additional or continued services and methods for ensuring that the additional or continued services are received;
 - A description of the degree to which the council's objectives and activities are consistent with the goals of this section;
 - Detailed information on the various programs, services, and activities available to participants and the degree to which the programs, services, and activities have been successfully used by seniors and adults with developmental disabilities; and
 - Information on programs, services, and activities that should be eliminated; programs, services, and activities that should be continued; and programs, services, and activities that should be added to the basic format of the council.

The council is required to maintain minutes of each meeting, including a record of all votes cast, and make such minutes available to any interested person. Members of the council serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses.

Subsection (3) provides that the fiscal year of the district shall be the same as that of the county. The district is subject to the budget adoption process as provided in s. 200.065, F.S. (TRIM). The adopted budget and final millage rate must be certified and delivered to the governing body of the county as soon as possible following the council's adoption of the final budget and millage rate. District millage may not exceed 0.5 mills. After the budget of the district is certified and delivered to the governing body of the county, it may not be changed or modified by the governing body of the county or any other authority.

All moneys received by the council on seniors' services must be deposited in qualified public depositories, with separate and distinguishable accounts established specifically for the council and may be withdrawn only by checks signed by the chair of the council and countersigned by one other member of the council or by a chief executive officer authorized by the council. The chair and the other member of the council or chief executive officer who signs its checks must be bonded, with the premium paid by the district.

Funds of the district may not be expended except by check, and except expenditures from a petty cash account, which may not at any time exceed \$100. All expenditures from petty cash must be recorded on the books and records of the council on seniors' services. Funds of the council on services for seniors and adults with disabilities, excepting expenditures from petty cash, may not be expended without prior approval of the council.

The district is required to file quarterly reports with the governing body of the county. The report must identify the total expenditures, receipts, cash on hand, investments, deposits, and the total administrative costs of the district.

Subsection (4) provides that any district may be dissolved by a special act of the Legislature, or by ordinance of the county governing body, subject to the approval of the electorate. If any district is dissolved, each county must first obligate itself to assume the debts, liabilities, contracts, and outstanding obligations of the district within the total millage available to the county governing body. Any district may also be dissolved pursuant to section 189.4042, F.S.¹⁹

Subsection (5) authorizes the county to assume the funding of the district.

Subsection (6) requires districts to comply with all other statutory requirements of general application which relate to the filing of any financial reports or compliance reports.

Subsection (7) authorizes counties to, by ordinance, create a dependent special district to provide preventive, developmental, treatment, and rehabilitative services for seniors and adults with developmental disabilities. The district is authorized to seek grants from state, federal, and local agencies and accept donations from public and private sources, if the district complies with district membership and functional requirements proscribed by this act and has a budget approved (or may be vetoed) by the governing body of the county. If county charter provisions conflict with the membership requirements of this act, the county is provided specific authority to create the district.

Subsection (8) provides that it is the intent of the Legislature that the funds collected pursuant to this section be used to support improvements in services for seniors and adults with developmental disabilities and that such funds not be used as a substitute for existing resources or for resources that would otherwise be available for such purposes.

Subsection (9) provides that two or more councils may enter into a cooperative agreement to share administrative costs, including, but not limited to, staff and office space, if a more efficient or effective operation will result. The cooperative agreement must include provisions on

¹⁹ Which provides for the merger or dissolution of dependent and independent special districts.

apportioning costs between the councils, keeping separate and distinct financial records for each council, and resolving any conflicts that might arise under the cooperative agreement.

Subsection (10) provides that two or more councils on seniors' services may enter into a cooperative agreement to seek grants, to accept donations, or to jointly fund programs serving multi-county areas. The cooperative agreement must include provisions for the adequate accounting of separate and joint funds.

Subsection (11) provides that councils or districts may not require any public or private service provider to provide additional matching funds as a condition of the council providing services or programs to seniors and adults with developmental disabilities.

The CS provides that this act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The CS authorizes counties to create, by ordinance, an independent special district to provide funding for seniors' services throughout the county. Upon approval by the electors in the county, the district may annually levy ad valorem taxes, not to exceed 0.5 mills. A millage rate of 0.5 applied to a \$150,000 taxable property would yield \$75 per year. These districts are not authorized to levy non-ad valorem assessments.

B. Private Sector Impact:

The CS authorizes counties to create, by ordinance, an independent special district to provide funding for services for seniors and adults with developmental disabilities throughout the county. Upon approval by the electors in the county, the district may annually levy ad valorem taxes, not to exceed 0.5 mills.

To the extent that counties exercise this authority, property owners within the county will be subject to increased ad valorem taxes.

C. Government Sector Impact:

To the extent counties exercise the authority to establish special districts to provide services for seniors and adults with developmental disabilities, such districts will be subject to the requirements of this act.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
